

# Rickner PLLC

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January 27, 2021

**Via ECF**

The Honorable Brian M. Cogan  
U.S. District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Ruben Wills v. Microgenics Corporation et al.*, 20-cv-04432 (BMC) (VMS)

Dear Judge Cogan,

We represent Plaintiff Ruben Will in the above-caption action and submit this letter to explain the recently filed Amended Complaint.

Following the last conference, a protective order was entered and we were able to obtain the documents produced in the class action. We reviewed a substantial number of them, and incorporated what we learned into the Amended Complaint. The negligence claim, we believe, is now stronger. But the due process claim theory against the Microgenics Defendants is not being included. There may still be a due process claim against these Defendants, but it is a different factual theory than we pled, and more discovery will be needed to support it.

Thus, the Amended Complaint still has the due process claims against the employees of the State of New York, but not against the Microgenics Defendants. If further discovery shows there is a due process claim, we will seek to amend at that time.

This letter is not being submitted as a letter motion because no relief is being requested. Plaintiff merely thought it appropriate to explain the change in position since the last conference.

Respectfully,

/s/

Rob Rickner